

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

BURGESS DELONG,	)	
	)	CASE NO.1:13 CV 1826
Plaintiff,	)	
	)	JUDGE DONALD C. NUGENT
	)	
vs.	)	<u>MEMORANDUM OPINION</u>
	)	<u>AND ORDER</u>
CALHOUN KADEMENOS &	)	
CHILDRESS CO., LPA.,	)	
	)	
Defendant.	)	

This case is before the Court on a combined motion by Plaintiff, Burgess DeLong and Proposed Intervener, Beth A. Adkins. The Motion is titled “Motion for Leave to File First Amended Complaint and to Intervene a Substitute Class Representative.” (ECF #7). The Motion also seeks an order allowing Mr. DeLong, the current Plaintiff and sole putative class representative, to voluntarily dismiss his claims without prejudice. (ECF #7, at 1-2, 4-5). Federal Rule of Civil Procedure 15 governs when and how a party may amend its pleadings. In this case, however, no party is seeking to amend a pleading. Rather, Mr. DeLong, the sole Plaintiff in this action seeks permission to voluntarily dismiss his claims.

Ms. Adkins is not currently a party to this case. She cannot invoke Fed.R.Civ.P. 15 to seek an amendment to someone else’s claims. There is no actual party seeking an amendment under

Fed.R.Civ.P. 15. Rather, what counsel is seeking to do is to wholly replace Mr. DeLong's Complaint with a Complaint that Ms. Adkins wishes to file on her own behalf. This is not the purpose of Fed.R.Civ.P. 15.

Mr. DeLong's request to voluntarily dismiss his Complaint without prejudice is granted. This leaves no Complaint to be amended, and no named party with standing to do so. Therefore, the motion to file a First Amended Complaint is denied. Similarly, as Mr. DeLong has voluntarily dismissed his Complaint, there is no action remaining into which Ms. Adkins may intervene. If Ms. Adkins wishes to file an action on her own behalf, nothing prevents her from doing so through the regular filing procedures.

For the reasons set forth above, Plaintiff's Motion is GRANTED in so far as he seeks to voluntarily dismiss his Complaint without prejudice; Plaintiff and Proposed Intervener's motion to amend the complaint and allow Ms. Adkins to intervene is DENIED. (ECF #7). This case is dismissed without prejudice pursuant to Fed.R.Civ.P. 41(a)(2), based on the Plaintiff's representation that personal and medical issues prevent him from prosecuting his claims at this time. IT IS SO ORDERED.

/s/ Donald C. Nugent  
DONALD C. NUGENT  
United States District Judge

DATED: November 19, 2013